

OFFICE OF THE ATTORNEY GENERAL



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STATE OF ALABAMA

MAR - 9 1995

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Honorable Michael E. Jones
Attorney, Electric Board for
City of Luverne
P. O. Box 367
Luverne, AL 36049

Electric Boards - Funds -
Hospital Boards - Counties -
Nonprofit Corporations

If the Electric Board of the City of Luverne has surplus funds from the issuance of bonds and the collection of revenue, and if the proceedings authorizing the issuance of bonds provide that such surplus funds can be used in any lawful manner, the Electric Board may contribute these surplus funds to the Crenshaw County Hospital Board or the Crenshaw County Commission. The county hospital board may then contract with the nonprofit corporation leasing the hospital for the operation of an emergency room.

Dear Mr. Jones:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

Can the Electric Board of the City of Luverne contribute funds to the Crenshaw County Commission or the Crenshaw County Hospital Board to maintain the emergency room at the county hospital?

FACTS, LAW AND ANALYSIS

It was stated in correspondence received by this office that the Crenshaw County Hospital Board is established under Code of Alabama 1975, § 22-21-70, et seq. The Hospital Board has leased the county hospital to Baptist Outreach Services Corporation, a nonprofit subsidiary of Baptist Health Services of Montgomery. The contribution would be made to the Hospital Board or the County Commission who would direct the disbursement.

You have informed me that the Electric Board of the City of Luverne is established pursuant to Code of Alabama 1975, § 11-50-13, et seq. These provisions allow a municipality in this state to transfer utility plants, including electric plants and systems, to a public corporation created under Code of Alabama 1975, § 11-50-231 through § 11-50-238, § 11-50-240 and § 11-50-241.

This office stated in an opinion to the Honorable Richard Walker, Chairman of the Gas Board of the Town of Berry, dated February 17, 1984, A.G. No. 84-00161, that the Gas Board which issued bonds under Code, § 11-50-310, et seq., could use surplus funds in any lawful manner as provided in the proceedings authorizing the issuance of bonds. It was concluded that the Gas Board could donate such surplus funds to the Town of Berry for a municipal park.

The provisions under which the Electric Board of the City of Luverne is governed (Code, §§ 11-50-231, et seq.) are similar to §§ 11-50-310, et seq. Section 11-50-237 authorizes such board to execute and sell bonds. It is further stated at § 11-50-237(b):

"(b) When any such corporation shall have borrowed money and issued its bonds payable from the revenues of its systems, or either of them, it shall charge, collect and account for revenues from the

operation of such system or systems sufficient to pay the principal of and the interest on said bonds as such principal and interest respectively mature, to pay the costs of operating and maintaining such system or systems and to create and maintain any reserves or special funds which may be provided for in the proceedings authorizing the issuance of the bonds. Any such corporation shall apply all such revenues in the manner and for the purposes provided for in such proceedings."

This is very similar to the provisions of Code, § 11-50-316(a) cited in the previously cited opinion to Mr. Walker, Chairman of the Gas Board of Berry. Thus, if the Electric Board has issued bonds and the proceedings authorizing such issue state that the surplus funds can be used in any lawful manner, the Electric Board may contribute such funds to the Crenshaw County Hospital Board or to the Crenshaw County Commission.

A county commission by virtue of Code, § 22-21-81 may by a duly adopted resolution appropriate funds to a hospital corporation established under Code, §§ 22-21-70, et seq. Opinion of the Attorney General to Honorable Floyd R. Cook, Chairman, Perry County Commission, dated February 19, 1981, A.G. No. 81-00267.

Because the hospital at which the emergency room is to be located is leased to a nonprofit corporation, there should be a contractual arrangement between the corporation and the hospital board for the providing of medical services, including the maintenance of the emergency room.

CONCLUSION

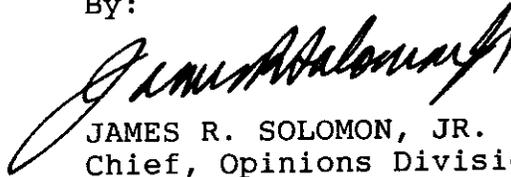
If the Electric Board of the City of Luverne has surplus funds from the issuance of bonds and the collection of revenue, and if the proceedings authorizing the issuance of bonds provide that such surplus funds can be used in any lawful manner or similar language, the Electric Board may contribute these surplus funds to the Crenshaw County Hospital Board or the Crenshaw County Commission. The county hospital board may then contract with the nonprofit corporation leasing the hospital for the operation of an emergency room.

Honorable Michael E. Jones
Page 4

I hope this sufficiently answers your question. If our office can be of further assistance, please contact James R. Solomon, Jr., of my staff.

Sincerely,

JEFF SESSIONS
Attorney General
By:

A handwritten signature in cursive script, appearing to read "James R. Solomon, Jr.", written in black ink.

JAMES R. SOLOMON, JR.
Chief, Opinions Division

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